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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/069,694 | 07/15/2002 | Raymond Davies | PA-9946 | 3743 |

22840 7590 01/03/2005

AMERSHAM BIOSCIENCES
PATENT DEPARTMENT
800 CENTENNIAL AVENUE
PISCATAWAY, NJ 08855

EXAMINER

SORKIN, DAVID L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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1723

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,694

Applicant(s)

DAVIES ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as containing new matter, under 35 USC 132 and 37 CFR 1.121(f). New drawing figures 7a-7c contain several new details that are not described in the original disclosure. For example the threaded pipe in Fig. 7a and 7b is new matter. In Figure 7c, the arrangement of 29, below 28 and above 27 is new matter. The drawings must be limited to information described in the original disclosure and must contain no new matter. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.
2. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furlong (US 722,833) in view of Parmeley (US 1,254,429). Regarding claim 1, Furlong ('833) discloses an apparatus comprising a reservoir (A) having an open top, side walls, end walls and a base (see Figs. 1 and 2; page 1, lines 21-23); a substantially horizontally-disposed mixing plate (F) mounted inside the reservoir, the mixing plate having a plurality of vertical holes extending through the plate (see Figs. 2 and 3; page 1, lines 100-104); and means (f,G) for raising and lowering the mixing plate relative to the reservoir (see Fig. 2; page 1, line 69-74). Furlong ('833) does not disclose the reservoir being in an outer casing. Parmeley ('429) teaches placing a reservoir (28) in an outer casing (5) (see page 1, lines 23-50; drawing). It is considered that it would have been obvious to one of ordinary skill in the art to have placed the reservoir of Furlong ('833) in an outer casing to achieve the benefit of pressuring the contents of the reservoir for delivery as taught by Parmeley ('429) (see page 1, lines 23-50). Regarding claim 2, the reservoir further comprises means (B) for adding samples to the reservoir by means of a reagent feed pipe and means (D,a) for removal or re-circulation of unused liquids from the reservoir by means of an overflow pipe (see Figs. 1 and 2; col. 1 lines). Regarding claim 3, the mixing plate contains an array of holes extending

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through the plate, the holes being in fixed relationship one with another (see Fig. 3).

Regarding claim 4, the mixing plate contains an array of 24 holes (see Fig. 3).

Regarding claim 7, Furlong ('833) discloses a method for mixing and maintaining particulate materials in liquid suspension (see page 2, lines 1-8), using the apparatus discussed above with regard to claim 1 comprising the steps of introducing a liquid suspension of particulate materials to the mixing chamber of the reservoir, actuating the mixing plate inside the reservoir so as to mix and maintain the particulate materials in liquid suspension (see page 1 line 85 to page 2 line 8).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furlong (US 722,833) in view of Parmeley (US 1,254,429) as applied to claim 7 above, and further in view of Dazzi (US 2,786,040). While Furlong ('833) states that the particulate materials are paint components, a particular paint composition is not disclosed. Dazzi ('040) teaches that including polystyrene results in "new high standard of performance" (see col. 1, lines 17-29). It is considered that it would have been obvious to one of ordinary skill in that art to have made the particulate material of Furlong ('833) be polystyrene to achieve the "new high standard of performance" as taught by Dazzi ('040).

Allowable Subject Matter

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. While applicant argues that Furlong ('833) does not disclose that the reservoir has an open top, the reservoir top of Furlong ('833) is open at B and D. That Furlong ('833) also discloses these openings are capable of being covered does not negate the disclosure that they are open. Fig. 2 expressly depicts the container top being open at B and D.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS